

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

WENDY DAVIS, et al.,
Plaintiffs

v.

ELIAZAR CISNEROS, et al.,
Defendants

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1:21-cv-565-RP

AMENDED ORDER ON JURY SELECTION AND TIME CHANGE

By referral of the District Court pursuant to 28 U.S.C. § 636 (Dkt. 481), jury selection will proceed before this Magistrate Judge at **9:30 a.m. on Friday, September 6, 2024**, in Courtroom 1 on the First Floor of the United States Courthouse, 501 West Fifth Street, Austin, Texas, according to the plan below.

Jury Selection Plan

Due to the large number of objections to the proposed jury selection plan (Dkt. 488), **counsel must appear to address their objections and any other requested changes or issues concerning jury selection at 8 a.m. Friday, September 6, 2024, one hour earlier than previously ordered.**

I. Welcome

- A. Venire seated in gallery
- B. Explanation of purpose of voir dire examination
- C. Initial instructions

II. General Questions (with follow-up to juror questionnaire responses as needed)

- A. Anticipated trial length: Undue hardship/special problem?

B. Statement of Facts:

This civil case is brought by three Plaintiffs—Wendy Davis, David Gins, and Timothy Holloway—against six Defendants—Eliazar Cisneros, Randi Ceh, Steve Ceh, Joeylynn Mesaros, Robert Mesaros, and Dolores Park. Plaintiffs allege that on October 30, 2020, they were campaigning for the Biden-Harris Presidential Campaign in a campaign bus tour traveling on Interstate 35 from San Antonio to Austin. Plaintiffs allege that Defendants, with others, organized and carried out a conspiracy to use force, intimidation, or threats to prevent Plaintiffs from supporting and advocating for their preferred candidate, or to injure them for that support, by surrounding the bus with their cars and trucks in a so-called “Trump Train,” impeding its progress and preventing Plaintiffs from making several scheduled campaign stops along I-35. Plaintiffs bring three claims for monetary damages. In Claim I, Plaintiffs allege that Defendants violated 42 U.S.C. § 1985(3), also referred to as the Ku Klux Klan Act. In Claim II, Plaintiffs allege that Defendants are liable for Civil Conspiracy under Texas State Law. In Claim III, Plaintiffs allege that Defendants are liable for Assault under Texas State Law.

Defendants deny the truth and accuracy of Plaintiffs’ allegations, and each puts forth their own defenses. Each Defendant denies that they conspired with anyone to cause intimidating or threatening behavior or prevent Plaintiffs from engaging in support or advocacy for their preferred candidates. Defendants instead assert that they were engaging in a peaceful protest in support of their chosen candidate for President. Defendants assert that Plaintiffs cannot prove each of the required elements of their claims, nor will they establish that their requested damages are appropriate.

- C. Counsel, client, and witness introductions: Do you or any immediate family member know any of them? Have you been employed by, heard or read anything, or formed an opinion about them?
- D. Do you have any knowledge of other panel members or the courthouse judges and staff?
- E. Do you know anything about this case? Is there anything about the description that causes you to believe you could not judge this case fairly, with an open mind?
- F. Do you have any interest in the outcome of this litigation?
- G. Have you or any member of your immediate family ever participated in a lawsuit as a party, witness, or in any other capacity?
- H. Do you have any legal training, education, or work experience?
- I. Instructions on evidence and law: Are you able and willing to render a verdict solely on the evidence presented at the trial in the context of the law?

- J. Instruction on burden of proof in civil cases: Are you able to require plaintiffs to prove their case by a preponderance of the evidence and not hold them to a greater or lesser standard of proof?

III. Specific Questions Requested by Counsel (with follow-up questions as needed)

- A. Have you heard anything about a case brought by Plaintiffs against the City of San Marcos?
- B. Have you, or your close family members or friends, ever attended a “Trump Train,” “MAGA Drag the Interstate,” or similar event, or been a member of the “New Braunfels Trump Train” or “Alamo City Trump Train” Facebook groups?
- C. Have you, or your close family members or friends, been employed by or had any business or close personal relationship with a Texas politician or political body or organization?
- D. Have you, your close family members, or close friends ever worked for a political campaign or a political party or other political organization?
- E. Have you ever ridden on a campaign or tour bus?
- F. Do you hold any personal political beliefs that would affect your ability to be a fair and impartial juror in this case?

IV. Questions from Plaintiffs’ Counsel (45 minutes, subject to limitation by the Court)

V. Questions from Defendants’ Counsel (60 minutes, subject to limitation by the Court)

VI. Final Questions by the Court, including any matter for the Court’s attention

VII. Recess

- A. Jurors are excused
- B. Attorneys may exercise challenges for cause and peremptory challenges
- C. Eight jurors are selected

VIII. Jurors Return to Courtroom

- A. Stricken jurors are excused
- B. Jury is sworn and preliminary instructions are provided

SIGNED on September 5, 2024.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE